

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) For Authority to, Among Other Things, Increase Its Authorized Revenues For Electric Service in 2006, And to Reflect That Increase in Rates.

Application 04-12-014
(Filed December 21, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING THE OFFICE OF RATEPAYER ADVOCATES'
MOTION TO STRIKE A PORTION OF SOUTHERN CALIFORNIA EDISON
COMPANY'S REBUTTAL TESTIMONY**

On June 3, 2005, the Office of Ratepayer Advocates (ORA) filed a motion to strike lines 11 through 21 on page 10 of a volume, since identified as Exhibit 23, of Southern California Edison Company's (SCE) rebuttal testimony

ORA states that the Commission has held that a utility is not permitted to withhold salient information until submission of rebuttal.¹ ORA argues that SCE's failure to provide ORA with similar information when ORA sought it in data requests is grounds to strike the testimony in question.

On June 6, 2005, SCE responded to ORA's motion. SCE states that the right to present rebuttal is fundamental. Without an opportunity to present facts to rebut ORA's allegations, SCE argues that it would be deprived of the opportunity to open and close its case. SCE also states that the testimony ORA

¹ ORA cites D.04-07-022, mimeo., p. 153, in SCE's test year 2003 general rate case.

wants stricken is entirely consistent with the proper scope of rebuttal, the Commission's rate case plan, and the admonition in SCE's 2003 GRC decision regarding withholding salient information until submission of rebuttal.

Background

In support of its GRC request, SCE included, as a workpaper, "Distribution Infrastructure Statistics as of 12/31/2003." For 25 distribution equipment categories, such as wood poles, the workpaper includes information on the population, average age and average time to wear out.

ORA sent SCE a data request about this workpaper on January 11, 2005 requesting:

Workpaper page 88: Provide copies of the Distribution Infrastructure Statistics report for each year from 1993 - 2002 inclusive.

On January 11, 2005, SCE sent ORA the following response:

It would be a significant undertaking to develop a report on distribution statistics for each of the past ten years. Our estimate is that it would require an engineer working full-time for two weeks to accomplish this. This type of historical data is not typically used in the normal course of business. Therefore, resources have not been expended to keep it readily available. The workpaper, page 88, submitted with SCE-3, Vol. 3, Part III, Chap. I, was developed over the course of about months.

ORA sent SCE a follow-up question on January 22, 2005 asking:

Re: SCE response to Q.9 indicates that distribution infrastructure statistics were gathered over a period of time. Are there any similar documents (perhaps with a difference format or scope of infrastructure) available from the 1993 – 2002 timeframe.

On January 27, 2005, SCE responded:

The distribution infrastructure statistics worksheet was put together specifically for the 2006 GRC testimony. This was a significant effort requiring several months to obtain the data. Earlier versions of this worksheet do not exist.

Based on these responses, ORA submitted its testimony on April 14, 2005 and stated, in part:

SCE argues that it has “aging infrastructure,” although SCE has not precisely defined this term. While SCE has provided evidence of the age of its infrastructure, SCE has provided no evidence that infrastructure is becoming older. There is no factual basis to conclude either that there are more at-risk components, or that 2005 infrastructure is older on average than in 2004 or 2003. SCE prepared its evidence on a one-time basis, and took several months of effort. SCE could provide no quantitative evidence one way or the other to indicate that it is harder to get the same reliability outcomes of its current system. (ORA Report on the Results of Operations, Volume 2, p. 17-8 – 17-9.)

In its May 25, 2005 rebuttal testimony, SCE stated,

Contrary to ORA:

At year- end 2000, the average age of SCE’s in-service underground distribution cable was 17.45 years. By the end of 2003, that had increased to 18.7 years.

In mid-2002, the average age of our distribution wood pole population was 36.8 years. By year-end 2003, that had grown to 38.2 years.

At the end of 2001, the average age of our underground switch population was 16.53 years. By year end 2003, that had grown to 17.06 years.

This is clear evidence of the aging of SCE's infrastructure. In fact, if anything these ages understate the rate of aging of our system because the overall average age is diluted by new infrastructure added to support new customers. (SCE-23, p. 10, lines 11 through 21.)

The average age of 17.45 years for underground distribution cable at year-end 2000, the average age of 36.8 years for distribution wood poles in mid-2002, and the average age of 16.53 years for underground switches at year-end 2001 are the information that is the subject of ORA's motion to strike.

Discussion

From the facts presented, it is clear that in rebuttal testimony SCE used statistical information previously requested by ORA. That information was not provided to ORA, because it was not available and would be time consuming to calculate.

The issue here is not whether SCE deliberately withheld information for presentation in rebuttal, whether SCE is entitled to rebuttal, whether SCE has the right to open and close its case, whether the testimony in question is consistent with proper scope of rebuttal or whether the testimony in question is consistent with the Commission's rate case plan. Rather, the issue involves the matter of fairness and the question of whether SCE should be held accountable for the information it provides during the processing of this case.

A tremendous amount of information must be distributed and disseminated in order for the Commission to make a reasoned decision regarding SCE's general rate increase request. As the utility, SCE has control over the vast majority of information related to its base rate operations. In order for the general rate case process to work properly, SCE must be held accountable for the information it provides, whether it is through the master data request

responses, prepared testimony and workpapers, data request responses or oral testimony.

ORA's motion to strike relates to the data request process. Generally, SCE must respond, to the best of its ability, to requests for information from ORA and other parties. In this instance, SCE indicated that certain historic statistical information regarding its distribution infrastructure was not available. SCE also indicated that it would take several months to gather and process the information necessary to respond to ORA's request. In such a case where information is not already available and where it would be an undue burden to calculate and produce the information, it is reasonable for SCE to not provide that information. If only certain portions of the requested information were available or could readily be gathered or calculated, those portions should certainly have been provided. If ORA or any other party is not satisfied with excuses or reasons for not providing requested information, it may seek resolution through the Commission's law and motion procedures.

However, in the context of this proceeding, SCE should be held accountable for its own determination that the requested statistical information for the years 1992 through 2002 was not available as well as its implication that it would be an undue burden to gather and process the information necessary to generate the requested statistics. It should not be allowed to use that information in its rebuttal testimony. By SCE's actions, ORA was denied the opportunity to evaluate and make use of the requested statistical information for the 1992 through 2002 time period. It would be unfair to ORA, and inappropriate in general, to allow the very same requested information that was not provided by SCE in the data request process to subsequently either be found or generated by

SCE and then used for rebuttal. It is for these reasons that ORA's motion to strike a portion of SCE's rebuttal testimony should be granted.

IT IS RULED that the motion of the Office of Ratepayer Advocates to strike lines 11-21 on page 10 of Exhibit 23 is granted.

Dated June 13, 2005, at San Francisco, California.

/s/ DAVID K. FUKUTOME
David K. Fukutome
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties for whom an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Granting the Office of Ratepayer Advocates' Motion to Strike a Portion of Southern California Edison Company's Rebuttal Testimony on all parties of record in this proceeding or their attorneys of record.

Dated June 13, 2005, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.